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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001
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SECRETARY

December 23, 2003

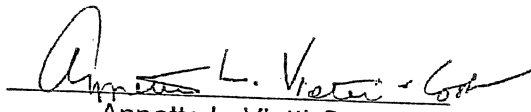
COMMISSION VOTING RECORD

DECISION ITEM: SECY-03-0208

TITLE: ADVERSARY FOR FORCE-ON-FORCE
EXERCISES AT NRC-LICENSED FACILITIES

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 23, 2003.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.


Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO

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May be exempt from public release under the Freedom of Information Act (5 U.S.C. 552)	
Exemption number	<u>2</u>
Nuclear Regulatory Commission review required before public release.	
<u>Annette L. Vietti-Cook / SECY</u>	
Name and organization of person making determination.	
Date of Determination	<u>December 23, 2003</u>

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VOTING SUMMARY - SECY-03-0208

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X				X	12/15/03
COMR. McGAFFIGAN	X				X	12/16/03
COMR. MERRIFIELD	X				X	12/18/03

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on December 23, 2003.

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NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: CHAIRMAN DIAZ

SUBJECT: **SECY-03-0208 - ADVERSARY FOR FORCE-ON-FORCE
EXERCISES AT NRC-LICENSED FACILITIES**

Approved ^{with comments} XX July Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

Please see attached.

hif yndis
SIGNATURE

Dec 15, 03
DATE

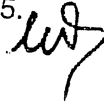
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Chairman Diaz' Comments on SECY-03-0208

I approve the staff's recommendation of Alternative 3 for development and implementation of a process to ensure that a credible, well-trained, and consistent adversary is used in force-on-force exercises. If fully implemented, Alternative 3 will provide an adversary force that can adequately represent the DBT characteristics. Moreover, training and capabilities of the adversary team will be consistent throughout the industry using performance based criteria. Each site will be tested against the same rigorous tactical and performance capabilities of an adversary team. It is expected that the adversaries will train together frequently to provide the necessary team cohesiveness. However, the staff should be prepared to implement Alternative 4 if our requirements are not fully met by April 30, 2005.



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NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-03-0208 - ADVERSARY FOR FORCE-ON-FORCE
EXERCISES AT NRC-LICENSED FACILITIES**

Approved ✓ ^{w/comments} Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

See attached comments.


SIGNATURE

December 16, 2003
DATE

Entered on "STARS" Yes X No _____

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Commissioner McGaffigan's Comments on SECY-03-0208

I approve proceeding with Alternative 3. I strongly encourage the staff to establish an aggressive schedule for developing the adversary force standards and issuing the implementation guidelines. Given the industry's concerns about Alternative 3, the staff should routinely update the Commission on progress made in resolving any outstanding issues. The Commission should be consulted on any substantive changes to Alternative 3 that may be considered during discussions with the industry. However, if the industry continues to balk at Alternative 3 as the preferred approach, I support pursuing Alternative 4 as Chairman Diaz proposes in his vote on SECY-03-0208. In that case, I would also support seeking additional funds in our FY 2005 budget request to accommodate the significant cost to NRC for adopting Alternative 4.

I am frustrated in the lack of progress by both the staff and industry over the past three months in developing the adversary force standards and issuing the implementation guidelines. Although many of the relatively minor details underpinning the alternatives have been fleshed out in the past 90 days, the central issue and the alternatives discussed in SECY-03-0208 remain unchanged. My principal concern is whether we will have in place and ready for use adversary force standards and implementation guidelines for FOF exercises that ensure a credible, well-trained and consistent mock adversary force is deployed by the revised DBT implementation date – October 29, 2004.

In my view, Commission direction could easily have been provided at or shortly after the discussion of this issue at the September 11, 2003 closed Commission briefing on the FOF pilot program status and lessons learned. At the behest of the staff, the Commission subsequently raised, inter alia, the issue of adversary force standards and implementation guidelines with senior industry representatives in a closed meeting on September 25.¹ The staff now tells us that despite several meetings over the past three months with the industry on this issue, the industry is unable to support any one alternative and has expressed concerns about Alternative 3 – namely, that the industry pool adversary force could in the industry's opinion exceed DBT-based capabilities over time. It is true that the potential exists for the mock adversary force to become smarter and wiser as it gains more experience and possibly exceed DBT-based capabilities over time, but that potential exists for all alternatives with the exception of Alternative 1, which no one advocates. As a result, I do not find the industry's concern to be persuasive in considering the proposed alternatives or as a basis for delaying action.

The October 29, 2004 compliance date looms large on the horizon and a considerable amount unfinished work needs to be resolved beforehand. Examples include revision of physical protection significance determination process (PPSDP), the use of JCATS (or similar computer

¹See Item 3 of the M030911 Staff Requirements Memorandum and the staff's response to Item 3 dated September 22, 2003.

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simulation program for table top testing), and controller quality. With regard to the timetable for having the necessary programs, procedures, and training completed by October 29, 2004, I remind the staff of the agency's response to the recommendations in the GAO report on nuclear power plant security. See the letter from Chairman Diaz to Congressman Markey dated October 21, 2003², which states in part that:

The NRC will continue to build enhancements into the pilot program and test new enhancements as we prepare to conduct about 21 force-on-force exercises in FY2004. The "pilot" designation of the enhanced force-on-force exercise program will be dropped in October 2004 to logically align with the effective date of the revised design basis threat. Our intent is that the last several exercises in FY 2004 in the pilot program will be identical in format and methodology with the exercises to be conducted in FY 2005.

The staff should be mindful of the impact that passage of the Energy Bill may have on the resolution of several open issues related to the revised physical protection and safeguards program, such as the characterization of NRC-evaluated FOF exercises (either as "training" or "testing"). In this case, the Energy Bill would statutorily require NRC to evaluate FOF exercises as testing. See Section 661(e) of HR 6.



²Letter from Chairman Diaz to Rep. Markey, et. al., dated October 23, 2004, regarding Commission concerns about the General Accounting Office's (GAO's) report entitled "Oversight of Security at Commercial Nuclear Power Plants Needs to be Strengthened" (GAO-03-752). See the response to Question 2 in the enclosure to the letter.

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NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: **SECY-03-0208 - ADVERSARY FOR FORCE-ON-FORCE
EXERCISES AT NRC-LICENSED FACILITIES**

Approved ☒ Disapproved ☐ Abstain ☐

Not Participating ☐

COMMENTS:

- See attached comments.


SIGNATURE

12/18/03

DATE

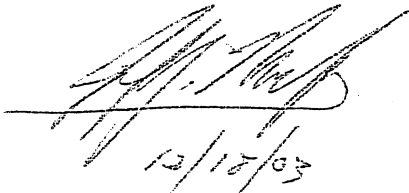
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Commissioner Merrifield's Comments on SECY-03-0208

I approve the staff's recommendation of Alternative 3 to establish adversary force standards and guidelines for the industry as a group. I believe this alternative will provide a more credible, well-trained, and consistent mock adversary team. I join Commissioner McGaffigan in encouraging the staff to establish an aggressive schedule to develop the appropriate adversary force standards and implementation guidelines.

I strongly oppose telegraphing to the staff and industry that if an agreement can not be reached on Alternative 3 by a certain deadline that the staff should automatically pursue Alternative 4 as a backup plan. I believe such an instruction would be inconsistent with the Commission's policy regarding transparency and predictability. I believe the staff should focus its effort on closely coordinating with industry on this issue and inform the Commission of any outstanding issues requiring Commission resolution. Based on the specific circumstances that exist at that time, the Commission would direct an alternate course of action if necessary. Without additional, more compelling evidence, I personally do not believe that it is appropriate for the staff to develop and maintain an adversary force composed of NRC staff or NRC contractor personnel. Such an action would be inconsistent with the long standing Commission practice and policy that the licensee is responsible for all operational matters concerning the NRC licensed site.



12/12/03